

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE ORGANOGENESIS SECURITIES
LITIGATION

Case No.: 1:04cv10027-JLT

PLAINTIFFS' MOTION FOR LEAVE TO SERVE THIRD PARTY SUBPOENAS

Pursuant to this Court's Discovery Order that "[n]o additional discovery shall take place without further order of the court," Plaintiffs respectfully move this Court for leave to serve a subpoena *duces tecum*, and, as deemed appropriate by Plaintiffs based upon any response to that subpoena, a subpoena *ad testificandum*, upon Needham & Company, Inc. ("Needham & Co.").

As grounds for this motion, Plaintiffs state that Needham & Co. served as one of Organogenesis, Inc.'s investment bankers and underwriters during the Class Period. In addition, Needham & Co. also monitored the company as an analyst during the Class Period and issued reports to investors concerning the company's stock. Several of these reports are cited in Plaintiffs' Corrected Consolidated Amended Class Action Complaint for Violations of Federal Securities Laws, filed on December 22, 2004 ("Amended Complaint") (Dkt. No. 58). *See* Amended Complaint ¶¶ 109, 115, 121, 126, 134, 146, 158. Therefore, Needham & Co. is likely to have information and documents "relevant to disputed facts alleged with particularity in the pleadings." Discovery Order, dated June 5, 2006 (Dkt. No. 122).

WHEREFORE, Plaintiffs respectfully request that this Court grant leave for them to serve a subpoena *duces tecum*, and as deemed appropriate by Plaintiffs based upon any response to that subpoena, a subpoena *ad testificandum*, upon Needham & Co.

Dated: February 2, 2007

MOULTON & GANS, P.C.

By: /s/ Nancy Freeman Gans
Nancy Freeman Gans, BBO #184540
55 Cleveland Road
Wellesley, MA 02481
Telephone: (781) 235-2246

*Liaison Counsel and Local Counsel for
Plaintiffs and the Class*

MILBERG WEISS & BERSHAD LLP

Sanford P. Dumain
Ariana J. Tadler
Peter Seidman
Peter Sloane
S. Melisa Twomey
One Pennsylvania Plaza
New York, NY 10119
(212) 594-5300

Lead Counsel for Plaintiffs and the Class

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I, Nancy Freeman Gans, hereby certify that on February 1, 2007, I notified Jonathan A. Shapiro, Esquire, Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Defendants Donna Abelli Lopolito, Michael Sabolinski, Philip Laughlin, Alan Tuck, and Albert Erani; Peter Saparoff, Esquire, Mintz, Levin, Cohn, Feris Glovsky and Popeo, P.C., counsel for Defendant Herbert M. Stein; and Sara Jane Shanahan, Esquire, Griesinger, Tighe & Maffei, LLP, counsel for Defendant John J. Arcari via email of Plaintiffs' intention to file this motion and inquired whether they assented. On February 1, 2007, Mr. Shapiro responded by stating that he wished to engage in a generalized discovery conference with all parties on February 5, 2007 "before assenting to any more filings." On February 2, 2007, I responded to Mr. Shapiro, with a copy to all counsel of record, stating that Plaintiffs were willing to engage in such a discovery conference, but intended to file the motion today. I suggested that Defendants could reserve their position as to whether to assent to or oppose the motion. I have received no further response from Mr. Shapiro or counsel for Defendants Arcari and Stein.

/s/ Nancy Freeman Gans
Nancy Freeman Gans

CERTIFICATE OF SERVICE

I, Nancy Freeman Gans, hereby certify that a true copy of the above document was served upon the attorney of record for each party via ECF.

/s/ Nancy Freeman Gans
Nancy Freeman Gans